

*The Crisis of the European Union. A Response.*

by Jürgen Habermas, translated by Ciaran Cronin.

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reviewed by William Outhwaite

This book, like the German original (Habermas 2011), includes an essay on human rights and the concept of human dignity which was published in 2010 in the *Deutsche Zeitschrift für Philosophie*, in a shortened version in the *Blätter für deutsche und internationale Politik*, and in English in *Metaphilosophy*. The rest of the book is devoted to the European Union and consists of the long title essay and, as an appendix, an interview and two newspaper articles. The two themes might seem as far apart as Strasbourg and Brussels, but Habermas points in the Preface (p. xi) to a link between them: 'The prospect of a political constitution of world society [*not*, he emphasises later (p. 94n.) a 'world government'] loses something of its semblance of utopianism when we recall that the rhetoric and politics of human rights have in fact exercised global effects over the past couple of decades.' The attempt to trace human rights back, historically and conceptually, to a concept of human dignity parallels Habermas' broader project in *Between Facts and Norms* (1992) of relating law and morality.

The rest of this review is devoted to Habermas' discussion of the European crisis. As in his earlier writings on the European Union, Habermas sees it in terms of the 'constitutionalization of international law' and as 'an important stage along the route to a politically constituted world society' (p. 2). He had argued without success for the need for a new constitution for the reunification of Germany and, in 2001, for a European constitution. Whether or not, as I am inclined to think, the subsequent history of both suggests he was right, this is spilt milk over which there is no point crying. Yet, Habermas insists (pp. 1-12), 'Europe is now more than ever a constitutional project'.

As analysts such as Joe Weiler and Hauke Brunkhorst have argued, in their different ways, the EU *does* have a kind of democratic constitution, but not one which anyone much recognises as such. If the 1980s were the decade of, *inter alia*, talk about the democratic deficit, the 2010s look like being the decade of what Habermas here calls 'postdemocratic executive federalism'.

The term 'executive federalism' entered the discussion in a relatively optimistic analysis of the EU by the legal theorist Philipp Dann (2002; 2003), to describe systems in which laws are mostly enacted at the federal (in the EU: supranational) level, where the necessary competence is located, but implemented at lower levels, and where there is a consensual approach to decision-making and the relations between these levels.

It has since taken on a more polemical edge, marked by Habermas' addition, in an article in *Die Zeit* on 20.5.10, of the adjective 'postdemocratic' and the assertion in the title that 'Europe must decide between transnational democracy and post-democratic executive federalism'. Here (p. 6) he stresses, following Stefan Oeter

(2003), the way in which decisions shift from national bureaucracies to a European one with even less democratic control.

Habermas has become increasingly pessimistic about the European Union. As he summarises it here, in *Ach, Europa* (Habermas, 2008) the inside cover blurb already declares the end of 'optimism about the politics of Europe', and this is given added emphasis in the subtitle of the English translation, 'the faltering project'. When he wrote the *Zeit* article, after Merkel's failure (over two years ago) to address the Greek problem because of domestic electoral concerns, 'was when the realization hit home to me for the first time that the failure of the European project was a real possibility'. (p. 102). 'Executive federalism, already implicit in the Lisbon Treaty', threatened to

expand...into a form of intergovernmental rule by the European Council, moreover, one which is at odds with the spirit of the treaty....

In this way, the heads of government would invert the European project into its opposite. The first transnational democracy would be transformed into an arrangement for exercising a kind of post-democratic, bureaucratic rule. (p. 52)

'The alternative', he goes on, 'is to continue the democratic juridification of the European Union in a consistent way.'

In his preface (p. viii) he repeats the phrase 'executive federalism' in relation to the response to the Eurozone crisis: 'The procedure envisaged seems to be that, in order to ensure the political implementation of all goals agreed with their colleagues in Brussels, the heads of government would organize majorities in their respective national parliaments under threat of sanctions. This kind of executive federalism of a self-authorizing European Council of the seventeen would provide the template for a post-democratic exercise of political authority.'

I shall not here go into the details of Habermas's analysis and his suggested remedies, but it would be hard to deny that the continuing Euro-crisis (of the continent, not just the currency) has reinforced the tendencies he identified. As for the remedies, his principle (pp. 28-9) that we have a kind of double mandate as citizens of national states and of Europe (as well as of cities, regions etc.) seems the right starting point.

Against the old argument that you can't have democracy without a demos, Habermas, who of course slogged this out with Dieter Grimm over a decade ago, counters, with perhaps a hint of sociological functionalism:

...the enduring political fragmentation in the world and in Europe is at variance with the systemic integration of a multicultural world society and is blocking progress towards the constitutional civilizing of state and societal relations of violence. (p. 44 – translation modified)

The idea of double representation means, in the European case, an extension of parliamentary control to match the coordination of fiscal and other economic policies, 'at least within the euro zone' (p. 20). (Against Wolfgang Schäuble and others, he argues (p.6) that direct election of a president of the Union 'would be nothing more than a fig leaf for the technocratic self-empowerment of a core European Council

whose informal decisions would circumvent the treaties.’) It also means however that ,the EU must not be understood as a kind of *imperfect* federal republic. Even nation states which have an internal federal structure are also constituted by the entire national citizenry alone.’(p. 38)

The logic of the EU’s development from negative to positive integration

...would imply that national citizens who *have* to accept a redistribution of the burdens across national borders would also *want* to exercise democratic influence over what their heads of government negotiate or agree upon in a legal grey area. Instead of this, we see the governments engaging in delaying tactics and the populations being led by populist sentiment to a wholesale rejection of the European project. (p. 50)

There is also a growing sentiment among serious commentators in favour of winding back or scaling down the ,European project’. Habermas is clearly not about to jump on this bandwagon. Now is probably not the time to regale the increasingly desperate people of Europe with more constitutional or other innovations. On the other hand, we are all too aware that (hopefully democratic) politics is needed in Europe to deal with global capitalism. As Habermas (p. 103) puts it, ‘Politics, not capitalism, is responsible for promoting the common good.’ A European Union which seriously addressed these issues would do much to revive democracy at both the national and the European level.

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## Bionote

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